1946. K **File No.** O Public Trust Regist/46

Legal Dept.
A. **BRANCH**

Subject:— Opinions under the Bombay Public Trust Registration Act 1935

File No. O Public Trust Regist/46

356-A

Office of the R.L.A.

It appears that a notice has been issued to one Pranlal Dayabhai of Broach by the Civil Judge, Senior Division, and Registrar of Public Trusts, Broach to show cause why steps should not be taken against him for not getting registered the Dandi Sanyasi Annakshetra trust under his management under section 5 of the Bombay Public Trust Registration Act, 1935. Pranlal's contention is that the trust is a private trust and consequently the provisions of the Bombay Public Trust Registration Act have no application. The Civil Judge has accordingly issued a notice to the Collector as representing charities in the district to state his side of the case. The Collector requests the R.L.A. to give his opinion on the following two points:-

(1) whether the Collector has a visitatorial power enabling him to enforce the proper administration of public trusts.

(2) whether the Collector can be joined as a defendant in suits brought in civil courts.

The Bombay Regulation XVII of 1827 gave to the Collector a visitatorial power enabling him to enforce an honest and proper administration of religious endowment. The connection of government in its executive capacity with Hindu and Mahomedan foundations was brought to an end for Bombay by Bombay Act VII of 1863 and for Bengal and Madras by Act XX of 1863 (12 Bom. 247 at page 28). The view taken by the Collector, Broach in his letter at page 1 ante that the Collector has no visitatorial power is correct.

Suits outside the Presidency towns for any of the purposes mentioned in section 92 can be filed either by the Collector or by two or more persons having an interest in the trust and having obtained in writing the consent of the Collector with the sanction of Government. In such suit

filed with the consent of the Collector, he cannot be impleaded as a defendant Nor can he be impleaded in suits filed by persons for purposes other than those mentioned in section 92. For instance, Pranlal in the present case may file a suit that the trust is a private trust; such a suit would be outside the scope of section 92 of Civil Procedure Code and the Collector would not be necessary party.

Id/- P.N.M.
12/6/46

Remembrancer of Legal Affairs.

U.H.to R.D.No.4340, dated the 14th June 1946.

RHB.-
10-7-56.

Sd.
6/8